

CITY COUNCIL PROCEEDINGS

Tuesday, November 16, 2010

1. CALL TO ORDER AND ROLL CALL

Mayor Osborne called the regular November 16, 2010 council meeting to order at 6:05 p.m. in the council chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, and Karakehian.

Council Member Morzel was absent.

A. **CERTIFICATION OF NOVEMBER 2, 2010 ELECTION RESULTS. – 6:06 P.M.**

Secretary Lewis presented items related to the certification of the 2010 Boulder Junction Access General Improvement Districts (Parking and Travel Demand Management [TDM] Mail Ballot Elections held on November 2, 2010.

There was a motion to adjourn from the Boulder City Council and convene as the General Canvassing and Election Board for the Boulder Junction Access General Improvement Districts Special Election.

Secretary Lewis called the roll of the General Canvassing and Election Board.

Those present were: Board Members Osborne, Wilson, Ageton, Appelbaum, Becker, Cowles, Gray, and Karakehian. Board Member Morzel was absent.

Secretary Lewis administered the oath and signing of same by Board members.

Council Member Appelbaum nominated Board Member Osborne to Chair the Board. The nomination was approved by acclamation.

Secretary Lewis then submitted the certificate of the official ballots, Certificates of the official public notices of the November 2, 2010 elections, and the certificate of election returns.

The being no speakers the public hearing was closed at 6:10 p.m.

Board Member Appelbaum moved, seconded by Ageton that the abstract and result sheets be approved, and signing of same. The motion carried unanimously 8:0.

Board Member Karakehian moved, seconded by Wilson to adjourn from the General Canvassing and Election Board for the Boulder Junction Access General Improvement Districts and reconvene as the Boulder City Council. The motion carried unanimously 8:0.

2. **PUBLIC PARTICIPATION and COUNCIL/STAFF RESPONSE – 6:11 p.m.**

1. Christy Gunter, an amateur potter, spoke to privatization of the pottery lab. She indicated it was the only city recreation facility that she used and asked why there had been no user or citizen input in the process. She suggested an outside agency could compare everything on an equal ground. Please stop the process now.
2. Faith Gowan introduced the Clay Art Pottery group which was one of the groups that submitted a proposal for the pottery lab. She spoke to the assets the group could bring as a privatized service for the City of Boulder.
3. Emilie Parker also with Clay Art Pottery group indicated her excitement at the opportunity to manage the pottery lab. She highlighted the important parts of their proposal and their desire to maintain many of the programs currently available. She invited council to view their proposal at clayartpotterygroup.com.
4. Paul Heffron pooling time with Diana Lopez-Barnett and Barbara Diehl and representing Studio Arts of Boulder indicated they had formed a new 501 (c) (3) and had studied the economic feasibility of continuing the pottery lab. As a non-profit he felt they had a good chance at taking over the pottery lab and running it economically by taking advantage of the opportunity to solicit private sector funding to continue and enhance programs. Their proposal was contingent upon the ability to work with the city on finding other properties. Please consider opening the public process and discussion for those interested.
5. Ann Rasker spoke to his desire to be in Boulder due to its tolerance and diversity. He raised concern that there was a trend toward special interest groups attacking one another. He commented that there had been no issues at Boulder Reservoir to speak of and many such issues lacked substance.
6. Gonzalo Garcia in charge of a children's tennis program spoke to the need to support small businesses partnering with the city. His tennis program had grown and been a great experience for him.
7. Emily Tesser spoke to the pottery lab issue and asked council to review the privatization issue. She felt a public process needed to be implemented and the City needed to protect it as a cultural asset.
8. Charles Lawhead spoke in support of the Pottery Lab and felt procedures and a strong guiding vision should be in place to direct departmental actions.
9. Ann Fontenot spoke to her first experience in Boulder and with the Pottery Lab. She spoke in support of Nancy Utterback's work in expanding and organizing the lab. She hoped the lab could be saved. Please slow down.
10. Alan Segal pooling time with Nancy Utterback and Rick Thompson spoke on behalf of Friends of the Pottery Lab and indicated they would like to see Council open the process for public input, specifically so it could understand the types of services the lab provides to its clients. Please defer the policy until more public comment may be provided and place the pottery lab under supervision other than with the Parks and Recreation department.
11. Ron Broom pooling time with Katherine Barnhart and Julia Freiburger on behalf of the Pottery Lab raised concern about the lack of process transparency and openness for the RFP. He felt some of the information the group received had been incorrect, specifically related to the costs to the city. He raised concern that members of staff and members of the Parks and Recreation Advisory Board were unaware of the RFP issuance.
12. Janet Roberts indicated the Pottery Lab was one of the things that made Boulder what it was. Please slow down and do more research.

13. Rob Smoke spoke to the Boulder Reservoir issue and noted that kayakers and swimmers may be avoiding the reservoir because of motorized boating. He asked council to chat with people they know to further understand the issues. Water quality continued to be a concern as well.
14. Dan King spoke in favor of leasing out city services, specifically the pottery lab. He felt if structured accurately it could continue to be a vibrant part of the community. It would aid in bridging the long term financial/structural gap.
15. Erv Bell spoke to the flaws in the process of issuing the RFP for the pottery lab. He asked council to develop a meaningful process to reach a successful public-private partnership.
16. Dan Dell'Agnese, experienced in running and operating varying types of art studios and museums, commented that Parks and Recreation should be including input from someone who is knowledgeable of the financial situation at the Pottery Lab. There were individuals ready to volunteer to assist in this process.
17. Julie Zahniser, Campaign Manager for Citizen for Boulder's Clean Energy Future, invited Council to an open event on Thursday, November 18 from 6-8:30 p.m. at St. Johns Episcopal Church, 1419 Pine Street. She thanked Council for helping pass ballot item 2B.
18. Al Gunter, former Parks and Recreation Advisory Board member, raised concern about the accounting procedures in Parks and Recreation and the whereabouts of the 2.5% sales tax approved a while back.
19. Todd Bryan, Chair of the Parks and Recreation Advisory Board, served on the committee that set the policy for the Valmont Bike Park and that was the basis used for developing partnering opportunities. He indicated there was a process in place and welcomed questions about how the process came about.

City Manager Response: none - 7:15 p.m.

City Attorney Response: - None.

City Council Response: - None.

3. **CONSENT AGENDA:** - 7:18 p.m.

- A. **CONSIDERATION OF A MOTION TO ACCEPT THE OCTOBER 12, 2010 SPECIAL CITY COUNCIL MEETING MINUTES.**
- B. **CONSIDERATION OF A MOTION TO ACCEPT THE OCTOBER 19, 2010 CITY COUNCIL MEETING MINUTES.**

Council Member Gray asked for a correction on page 4 in the last sentence, she had asked whether additional data had been received regarding global warming to understand the impact to Boulder's water supply.

On page 6, in the 4th paragraph she clarified the minutes should indicate that the Open Space Board of Trustees would like to see the reimbursement.

- C. CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARIES OF THE SEPTEMBER 28 AND OCTOBER 12 STUDY SESSIONS ON THE BOULDER VALLEY COMPREHENSIVE PLAN.**

- D. CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE OCTOBER 26, 2010 STUDY SESSION ON BOARDS AND COMMISSIONS.**

Council Member Appelbaum asked for a correction to page 9 as he was not just referring to the DMC but asked that all qualifications for all boards be considered.

- E. CONSIDERATION OF A MOTION TO APPROVE THE PURCHASE OF 40 ACRES OF LAND LOCATED AT 4815 N. 26TH STREET, BOULDER, CO 80301 FROM LOREE LAPPIN FOR \$625,000 FOR OPEN SPACE AND MOUNTAIN PARKS PURPOSES.**

Council Member Becker commented that she was not comfortable with approving large open Space purchases on the consent agenda and would like to see these come forward in another manner. Council Member Gray agreed.

- F. CONSIDERATION OF A RESOLUTION TO PROVIDE FIRE PROTECTION SERVICES TO CERTAIN ANNEXED PROPERTIES PREVIOUSLY SERVED BY THE ROCKY MOUNTAIN FIRE PROTECTION DISTRICT.**

- G. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE CODIFYING THE UTILITY OCCUPATION TAX ON PUBLIC UTILITY COMPANIES THAT DELIVER ENERGY TO CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS APPROVED BY THE VOTERS IN THE NOVEMBER 2, 2010 ELECTION BY THE ADDITION OF A NEW TITLE 3, CHAPTER 13, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.**

Council Member Appelbaum raised concern about the escalator clause at the bottom of page 5 of the memo. City Attorney Tom Carr indicated that he had prepared language for a pro rata calculation and he would bring forward that language for an amendment at second reading.

- H. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AMENDING SECTION 8-6-6, B.R.C. 1981, TO REQUIRE PERMITS OR LEASES FOR ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY AND PUBLIC EASEMENTS, AND SETTING FORTH RELATED DETAILS.**

- I. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE**

CONCERNING THE PUBLIC ACCOMMODATIONS TAX, INCREASING THE TAX RATE AND MAKING THE FUNDS AVAILABLE TO PAY FOR THE GENERAL EXPENSES OF GOVERNMENT, AS APPROVED BY THE VOTERS IN THE NOVEMBER 2, 2010 GENERAL ELECTION BY THE REVISION OF CHAPTER 3-3, "PUBLIC ACCOMMODATIONS TAX," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

- J. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE AMENDING CHAPTERS 4-20, "RENTAL LICENSE FEE," 10-2 "HOUSING CODE," WHICH INCORPORATES THE INTERNATIONAL PROPERTY MAINTENANCE CODE (IPMC), AND 10-3, "RENTAL LICENSE OF THE B.R.C., 1981," ALL OF WHICH ARE CORRECTIONS TO ORDINANCE NOS. 7724, 7725, AND 7726 AND SETTING FORTH RELATED DETAILS.
- K. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE APPROVING SUPPLEMENTAL APPROPRIATIONS TO THE 2010 BUDGET.
- L. CONSIDERATION OF A MOTION TO CALL A SPECIAL MEETING OF THE GENERAL CANVASSING AND ELECTION BOARD ON NOVEMBER 30, 2010 AT 6:00 P.M. AT CASEY MIDDLE SCHOOL, 2410 13TH STREET, TO CERTIFY THE CITY OF BOULDER 2010 ELECTION RESULTS.

Council Member Appelbaum moved, seconded by Karakehian to approve Consent items 3A through 3L with items 3B and 3D amended. The motion carried unanimously 8:0.

- 4. CALL- UP CHECK IN: - 7:28 p.m.

ORDER OF BUSINESS

- 5. PUBLIC HEARINGS:

*Items 5A through 5E will all be held as one public hearing.**

- A. CONSIDERATION OF THE FOLLOWING ITEMS RELATING TO THE 2011 BUDGET:
 - 1. PUBLIC HEARING ON THE PROPOSED 2011 CITY OF BOULDER BUDGET; AND
 - 2. SECOND READING, AND CONSIDERATION OF ORDINANCE NO. 7764 THAT ADOPTS A BUDGET FOR THE CITY OF BOULDER, COLORADO, FOR THE FISCAL YEAR COMMENCING ON THE FIRST DAY OF JANUARY 2011 AND ENDING ON THE LAST DAY OF DECEMBER 2011, AND SETTING FORTH DETAILS IN RELATION THERETO; AND

3. **SECOND READING AND CONSIDERATION OF ORDINANCE NO.7765 THAT ESTABLISHES THE 2010 CITY OF BOULDER PROPERTY TAX MILL LEVIES WHICH ARE TO BE COLLECTED BY THE COUNTY OF BOULDER, STATE OF COLORADO, WITHIN THE CITY OF BOULDER IN 2011 FOR PAYMENT OF EXPENDITURES BY THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**
4. **SECOND READING AND CONSIDERATION OF ORDINANCE NO.7766 THAT APPROPRIATES MONEY TO DEFRAY EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, COLORADO, FOR THE 2011 FISCAL YEAR OF THE CITY OF BOULDER, COMMENCING ON THE FIRST DAY OF JANUARY 2011, AND ENDING ON THE LAST DAY OF DECEMBER 2011, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**
5. **SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7767 THAT AMENDS CHAPTERS 3-9, 4-20 AND 8-3 B.R.C. 1981 CHANGING CERTAIN FEES AND SETTING FORTH DETAILS IN RELATION THERETO.**

Council Member Gray clarified that the Boulder Housing Partners' \$187,000 would go back to the Housing and Human Services budget. She also clarified that more information regarding overflow housing would be provided in the next budget supplemental and that the FTE reduction did not include pottery lab employees.

Deputy Mayor Wilson asked how the reserves Ken were sitting. Chief Financial Officer Bob Eichem indicated the reserves had held and none were under the reserve targets at this time.

Council Member Ageton commented that the Boulder Housing Partners \$187,000 was a result of them receiving an additional 181 housing vouchers and new revenue and it decided it no longer needed the subsidy from the City.

Council Member Becker asked how the budget addressed the long term structural funding gap. Chief Financial Officer Eichem noted that the budget was targeting both revenues and expenditures. Ms. Becker then asked when council would know if more funding was available to assist with overflow shelter housing. City Manager Brautigam responded that the long term goal was to provide long term transitional housing. Short term dollars did not support the longer term. She was challenging the directors of the shelter to find more money from outside organizations and she would report back to Council later in the winter.

Council Member Cowles commented that rough figures on the costs of contingency planning for ballot initiatives 60, 61, and 101 would be helpful.

Council Member Karakehian asked if the council budget was decreased. Staff responded there was not a specific reduction in the council budget or any additions. He suggested council could participate in the budget cutting process as well.

Council Member Appelbaum didn't feel items like the sister cities belonged in the council budget. He thought it would be good for council to look at those types of items.

Council Member Ageton concurred with Council Member Karakehian's idea to cut Council's own budget and model what others were asked to do. Regarding Parks and Recreation admission

fees she noted there was nothing that suggested any adjustment. Staff responded that fees would remain the same.

Alice Guthrie with Parks and Recreation noted that the fees in the code were entrance fees only. The program fees for classes were not in the code.

Council Member Appelbaum noted that the City Manager now had the authority to impose fees and asked how that related to open space. He thought the fees should be coordinated in the code. The City manager should have the authority to change those fees as well. There was general consensus to standardize Parks and Recreation and Open Space use fees.

Public Hearing - 7:58 p.m.

There being no speakers the public hearing was closed.

Council Member Appelbaum moved, seconded by Gray to:

1. Adopt Ordinance No. 7764 that adopts a budget for the City of Boulder, Colorado, for the fiscal year commencing on the first day of January 2011 and ending on the last day of December 2011, and setting forth details in relation thereto; and
2. Adopt Ordinance No. 7765 that establishes the 2010 City of Boulder property tax mill levies which are to be collected by the County of Boulder, State of Colorado, within the City of Boulder in 2011 for payment of expenditures by the City of Boulder, County of Boulder, State of Colorado, and setting forth details in relation thereto; and
3. Adopt Ordinance No. 7766 that appropriates money to defray expenses and liabilities of the City of Boulder, Colorado, for the 2011 fiscal year of the City of Boulder, commencing on the first day of January 2011, and ending on the last day of December 2011, and setting forth details in relation thereto; and
4. Adopt Ordinance No. 7767 that amends Chapters 3-9, 4-20 and 8-3 B.R.C. 1981 changing certain fees and setting forth details in relation thereto; and
5. A motion to adjourn from the Boulder City Council and convene as the Central Area General Improvement District (CAGID) Board of Directors.

The motion carried unanimously 8:0; Morzel absent.

B. CONSIDERATION OF THREE RESOLUTIONS PERTAINING TO THE 2011 BUDGET OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND).

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND), ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011.**
2. **A RESOLUTION ESTABLISHING THE 2010 CITY OF BOULDER CENTRAL AREA GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE FISCAL YEAR 2011, AND SETTING FORTH DETAILS IN RELATION THERETO.**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND) FOR THE 2011 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE CAGID BOARD OF DIRECTORS AND TO CONVENE AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT (UHGID) BOARD OF DIRECTORS.

Council Member Appelbaum moved, seconded by Karakehian to:

1. Adopt Resolution No. 237 concerning the city of Boulder Downtown Commercial District Fund (formerly known as the Central Area General Improvement District Fund), adopting a budget for the fiscal year beginning January 1, 2011.
2. Adopt Resolution No. 238 establishing the 2010 city of Boulder Central Area General Improvement District Property Tax Mill Levy for payment of expenditures, in part, of the district during the fiscal year 2011, and setting forth details in relation thereto.
3. Adopt Resolution No. 239 appropriating money to defray the expenses and liabilities of the city of Boulder Downtown Commercial District Fund (formerly known as the Central Area General Improvement District Fund) for the 2011 fiscal year and setting forth details in relation thereto; and
4. A motion to adjourn from the CAGID Board of Directors and to convene as the University Hill General Improvement District (UHGID) Board of Directors.

The motion carried unanimously 8:0; Morzel absent.

C. CONSIDERATION OF THREE RESOLUTIONS PERTAINING TO THE 2011 BUDGET OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND).

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND), ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011.**
2. **A RESOLUTION ESTABLISHING THE 2010 CITY OF BOULDER UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE FISCAL YEAR 2011, AND SETTING FORTH DETAILS IN RELATION THERETO.**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND) FOR THE 2011 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE UHGID BOARD OF DIRECTORS AND CONVENE AS THE BOULDER MUNICIPAL PROPERTY AUTHORITY BOARD OF DIRECTORS.

Council Member Appelbaum moved, seconded by Karakehian to:

1. Adopt Resolution No. 175 concerning the city of Boulder University Hill Commercial District Fund (formerly known as the University Hill General Improvement District Fund), adopting a budget for the fiscal year beginning January 1, 2011.
2. Adopt Resolution No. 176 establishing the 2010 city of Boulder University Hill General Improvement District Property Tax Mill Levy for payment of expenditures, in part, of the District during the fiscal year 2011, and setting forth details in relation thereto.
3. Adopt Resolution No. 177 appropriating money to defray the expenses and liabilities of the city of Boulder University Hill Commercial District Fund (formerly known as the University Hill General Improvement District Fund) for the 2011 fiscal year and setting forth details in relation thereto; and
4. A motion to adjourn from the UHGID Board of Directors and convene as the Boulder Municipal Property Authority Board of Directors.

The motion carried unanimously 8:0; Morzel absent.

D. CONSIDERATION OF A RESOLUTION FORMALLY ADOPTING THE 2011 BUDGET FOR THE BOULDER MUNICIPAL PROPERTY AUTHORITY; AND

CONSIDERATION OF A MOTION TO ADJOURN FROM THE BOULDER MUNICIPAL PROPERTY AUTHORITY BOARD OF DIRECTORS AND CONVENE AS THE FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT BOARD OF DIRECTORS.

Council Member Appelbaum moved, seconded by Wilson to adopt Resolution No. 131 formally adopting the 2011 budget for the Boulder Municipal Property Authority, and a motion to adjourn from the Boulder Municipal Property Authority Board of Directors and convene as the Forest Glen Transit Pass General Improvement District Board of Directors. The motion carried unanimously 8:0; Morzel absent.

E. CONSIDERATION OF THREE RESOLUTIONS PERTAINING TO THE 2011 BUDGET OF THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT FUND.

- 1. A RESOLUTION CONCERNING THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011.**
- 2. A RESOLUTION ESTABLISHING THE 2010 CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE FISCAL YEAR 2011, AND SETTING FORTH DETAILS IN RELATION THERETO.**
- 3. A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT FOR THE 2011 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT BOARD OF DIRECTORS, AND RECONVENE AS THE BOULDER CITY COUNCIL.

Council Member Appelbaum moved, seconded by Ageton to:

1. Adopt Resolution No. 34 concerning the city of Boulder Forest Glen Transit Pass General Improvement District, adopting a budget for the fiscal year beginning January 1, 2011.
2. Adopt Resolution No. 35 establishing the 2010 city of Boulder Forest Glen Transit Pass General Improvement District Property Tax Mill Levy for payment of expenditures, in part, of the District during the fiscal year 2011, and setting forth details in relation thereto.
3. Adopt Resolution No. 36 appropriating money to defray the expenses and liabilities of the city of Boulder Forest Glen Transit Pass General Improvement District for the 2011 fiscal year and setting forth details in relation thereto; and
4. A motion to adjourn from the city of Boulder Forest Glen Transit Pass General Improvement District Board of Directors, and reconvene as the Boulder City Council.

The motion carried unanimously 8:0; Morzel absent.

F. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7768 PROPOSING AN AMENDMENT TO TITLE 9, "LAND USE CODE" B.R.C. 1981 RELATED TO SECTION 9-7-7, "BUILDING Height, appurtenances," B.R.C. 1981. – 8:14 p.m.

Charles Ferro and Karl Guiler from the Planning Department provided the presentation on the item.

City Attorney Tom Carr suggested the words "height of the" on page 9, line 21, Section (1) should be removed.

There being no speakers the public hearing was closed.

Deputy Mayor Wilson moved, seconded by Becker to adopt Ordinance No. 7768 proposing an amendment to Title 9, "Land Use Code" B.R.C. 1981 related to Section 9-7-7, "Building Height, appurtenances," B.R.C. 1981 as amended to remove the words "height of the" on page 9, line 21, Section (1). The motion carried unanimously 8:0; Morzel absent. 8:27 p.m.

6. **MATTERS FROM THE CITY MANAGER: - 8:27 p.m.**

A. DIRECTION ON POTENTIAL REDEVELOPMENT OF DIAGONAL PLAZA SHOPPING CENTER. – 8:27 P.M.

The presentation was provided by Liz Hanson, Economic Vitality Coordinator, and David Driskell, Community Planning and Sustainability Director.

Rich Wobbekind, Chair of the Boulder Urban Renewal Authority, then provided a brief presentation to Council.

Council Member Gray asked what the Urban Land Institute (ULI) Technical Assistance panel (TAP) study would bring the process and how it was different than the work that had already been completed. Michael Leccese, Director of ULI Colorado, indicated that the panel was made up of expert volunteers with no specific interest in the project and it was designed to solve problems in the community. The \$10,000 to \$20,000 fee covers administrative costs as they are a non-profit organization. One out of state expert is usually included on the panel. The advantage was original thinking and Council could participate in an interactive process.

Council Member Appelbaum asked what the ULI would need as initial direction. Mr. Leccese responded that a well written problem statement would be helpful.

Deputy Mayor Wilson would like to see the TAP engaged before the retreat.

Council Member Karakehian commented that the blight study was an important step as it helped inform the path (costs \$12,000-\$13,000). He was in favor of hearing more about increased density. He asked if there was an option for the city to buy the property and put it under a development land lease.

Council Member Appelbaum suggested the City shouldn't spend money until it had to. He wondered if this had to be done to get potential developers to the table. He clarified that a blight study was good for seven years. Dan Guimond with EPS commented that lease buyouts were not a part of the cost estimate.

Council Member Becker suggested a better vision and looking at what was missing in the city like affordable shopping and big box retail and working to prevent retail “leakage” to other communities. She was not interested in seeing another mixed use, retail/office project at this site as this is the last large site that can accommodate something Boulder doesn’t have. She expressed that who was on the TAP panel mattered a lot. Regarding the EPS study she suggested getting input from large developers and being opportunistic.

Council Member Gray agreed with Council Member Becker's comments. She suggested the City should spend money and do the leakage study. She was very interested in getting property owners involved and having a component that addressed the option of a master developer.

Mayor Osborne expressed that she was very anxious about the work program. With the clean energy program, the enthusiasm regarding the South of Downtown Area, the Farmers’ Market, Cultural center, and Boulder Junction, she was worried about Council’s time and staff’s time. She was also concerned about the Boulder Housing Partners apartments near the property. She agreed that a TAP and leakage study would be good. She would like to see how many sales tax dollars were leaving town.

Council Member Becker was most interested in the leakage study and was not wedded to moving forward with the project.

Deputy Mayor Wilson suggested staff check with the County Consortium of Cities as they approved a leakage study for the whole County about 18 months ago that probably could provide useful data.

Council Member Ageton shared concerns about whether this was an appropriate project. This was a long standing problem. The leakage study was at the top of her list. To get focused it would be valuable to have current information given economic concerns. The blight study would be valuable. She suggested the city might want to wait to do the TAP study until a timeframe was determined. The visions should be about addressing community needs and increasing sales tax revenues. She suggested looking at the “medium potential” (as noted in the economic study) mid-level box stores such as Kohl’s or JC Penney. She also noted that a project that needed to be revisited was the Pollard site and it would be helpful to inform the vision for Diagonal Plaza.

Council Member Appelbaum agreed that it would be useful to look at the Pollard site. He viewed the Diagonal Plaza property as more commercial, not housing. He thought there needed to be innovative thinking about how to increase the density and keep it commercial. A “small, urban” big box store is worth looking at if this is the only site that works. We know there would be new net sales from a Costco and a Walmart would serve lower income residents.

Council Member Cowles agreed with most of Council Member Appelbaum's comments. He suggested the leakage study should include Internet sales. He agreed that there was no evidence leakage would have changed since 2005. The major leakage was general merchandise and he suggested Boulder was over-retailed in town. He did not think this

project should go on the planning work plan for the next year. Costco would be his only favorable big box retailer.

Council Member Karakehian would like to see the current leakage studies that had already been done.

Council Member Becker suggested the ULI study could happen before the retreat.

Council Member Appelbaum moved, seconded by Wilson to direct the city manager to proceed with the next steps of evaluating redevelopment of the Diagonal Plaza shopping center and area including scheduling an Urban Land Institute Technical Assistance Panel and examining work program options. Motion was made at 9:54 p.m.

B. DISCUSSION OF CONTRACTING OUT RECREATION SERVICES. – 9:54 P.M.

City Manager Jane Brautigam provided a high level overview of why local governments look at Parks and Recreation partnerships, rather than providing services for residents. Exploring partnerships was also a recommendation of the Blue Ribbon Commission.

Parks and Recreation Director Kirk Kincannon then spoke to the demands and needs of residents and described the national trend in the parks and recreation industry for contracting out services. Achieving economic sustainability in terms of parks and recreation was a goal of the department. He then described the current pottery lab program and associated city subsidy, and explained the RFP process that originated with an opportunity to work with Studio Arts. The deadline associated with a Studio Arts grant was a driving force behind the timing.

City Manager Brautigam reported that the Parks and Recreation Advisory Board (PRAB) had a meeting on June 28 to discuss the partnership process and goals and on August 23 the Board was provided information regarding the Pottery Lab RFP. Additional information was provided to PRAB on September 27 and October 25 on the RFP.

Council Member Becker clarified that the Parks and Recreation department was not intending to shut down the pottery lab. Mr. Kincannon indicated that the department would like to see the pottery program expanded. Council Member Becker also clarified that the privatization of the pottery lab would not involve any initial transfer of city assets. Eventually the city would sell or lease some of the equipment to the vendor and after a certain number of years the vendor would be required to provide any additional capital investment.

Council Member Becker then asked for clarification about the accuracy of the costing. Mr. Kincannon referred to Attachment B and explained what the direct and indirect costs included. She then asked whether it was typical to have the public involved in the RFP process. City Attorney Tom Carr stated that it was not typical to have the public involved to protect the rights of the bidders and a fair decision must be made based on the criteria rather than reasons outside the scope of the process. It would be more appropriate to have the public involved ahead of the RFP issuance to help develop the criteria.

Council Member Gray raised concern that Council didn't have a broader picture of what

types of programs would be under consideration for these partnerships or contracts. Mr. Kincannon indicated staff would be looking at everything, every program, to ensure staff is providing the highest quality programs to the public.

Mayor Osborne commented that she was most concerned about the process and wanted to make sure the PRAB was involved.

Deputy Mayor Wilson asked what the city's ability was to pull back on a contract if things weren't going well. City Attorney Tom Carr responded that the city would own the facility and in addition a progress payment could be established to ensure the vendor met certain benchmarks. The contract could be pulled back for failure to meet certain specified criteria. Mr. Wilson asked if there was a threshold for privatizing or a big RFP where the responsibility might not simply be with staff; where the Board and Council should be involved. City Manager Brautigam commented that it was very unusual for a Council to weigh in on the terms of an RFP. The clean energy study was an example of how Council and staff were working as a team. It was highly unusual to see Council involvement on the more programmatic items.

Council Member Ageton moved, seconded by Wilson to suspend the rules and continue the meeting at 10:41 p.m. The motion carried 7:1; Karakehian opposed and Morzel absent.

Todd Bryan, Chair of the Parks & Recreation Advisory Board then addressed Council describing the Parks and Recreation Board's involvement in the pottery lab RFP process. He noted that Studio Arts had not come directly before PRAB prior to speaking with staff about the opportunity.

Council Member Cowles commented he was completely on board with the goal of the department to create sustainable programs.

Council Member Cowles moved, seconded by Gray to recommend that the city manager refrain from contracting out services at the pottery lab until the city manager can run a public process to determine a sustainable future for the pottery lab that includes most importantly the current users of the pottery lab itself.

Council Member Ageton asked if there had been public or council involvement in other processes to contract out parks and recreation services. Mr. Kincannon responded that they were not, to his knowledge. She then asked if there were any other parks and recreation programs that were subsidized at the same level. Mr. Kincannon referred to attachment B and noted that anything not at a 100% cost recovery rate were subsidized by the City.

Council Member Appelbaum clarified that the subsidies were based on a per person subsidy.

Council Member Gray asked what types of things the subsidies covered. Mr. Kincannon and Alice Guthrie commented that instructors, life guards, chemicals, heating, etc. were included in the facilities part of the chart on Attachment B.

Council Member Appelbaum asked at what point the Parks Board and staff began to get significant concerns about something not being appropriate. Mr. Kincannon indicated that when the emails initially started coming in, it caused staff to pause. Based on the recreation plan and trying to keep the pottery lab running, staff had hoped to keep things seen in a positive light.

Council Member Becker commented that Council started receiving e-mails months ago.

Council Member Gray moved, seconded by Ageton to suspend the rules and continue the meeting at 11:02 p.m. The motion carried 7:1; Karakehian opposed and Morzel absent.

Council Member Karakehian agreed with Council Member Becker that Council had begun receiving emails about the pottery lab months ago. He clarified that there was no differentiation between resident vs. non-resident in the subsidies and there was a slightly higher fee for non-residents.

Council Member Becker commented that it was unfortunate that the issue had come forward the way it had. She did not feel staff had any ill intent. She noted council had embraced the policy of contracting out services when the recreation master plan was considered. She didn't necessarily want the Council to interfere on the particulars of the process. The pottery lab would change regardless and input from users that described where they would like to see the change would be useful.

Council Member Gray indicated her primary concern was that the users were not asked to be a part of the solution and she could support Council Member Cowles' motion.

7. **MATTERS FROM THE CITY ATTORNEY: - 11:15 p.m.**

A. **COUNCIL DIRECTION ON TWO INTERGOVERNMENTAL AGREEMENTS BETWEEN BOULDER COUNTY AND THE CITY OF BOULDER FOR SUSTAINABILITY PROGRAMS.**

City Attorney Tom Carr indicated that his staff was in the process of negotiating the Intergovernmental Agreements for sustainability programs with the County.

Deputy Mayor Wilson suggested Council Members could put any comments they had on the Hotline.

Council Member Appelbaum suggested he would like more of a discussion on the item.

Due to the late hour the matter would be brought back on December 7, 2010 for a council discussion and input.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:**

A. **POTENTIAL CALL-UPS:**

1. **LANDMARK ALTERATION CERTIFICATE TO REMOVE THE EXISTING FAÇADE AND TO RECREATE THE PRE-CIRCA-1939 STOREFRONT BASED UPON HISTORIC PHOTOGRAPHS AT 1043 PEARL STREET IN THE**

**DOWNTOWN HISTORIC DISTRICT. INFORMATION PACKET DATE:
NOVEMBER 10, 2010. LAST OPPORTUNITY FOR CALL-UP IS NOVEMBER
16, 2010. CONDITIONALLY APPROVED BY THE LANDMARKS BOARD 3-2;
PAYTON AND NORDBACK OPPOSED.**

No action was taken on this item.

2. **VACATION OF A FIVE FOOT STRIP (405 SQ. FT. TOTAL) OF AN EXISTING 10 FOOT WIDE UTILITY EASEMENT AT 1996 ALPINE AVENUE. INFORMATION PACKET DATE: NOVEMBER 10, 2010. LAST OPPORTUNITY FOR CALL-UP IS NOVEMBER 16, 2010. STAFF LEVEL APPROVAL.**

No action was taken on this item.

**B. CONSIDERATION OF A MOTION TO APPOINT NEW MEMBERS TO THE BEVERAGES
LICENSING AUTHORITY, BOARD OF ZONING ADJUSTMENT AND LIBRARY
COMMISSION.**

This item was removed from the agenda by the Council Agenda Committee and would return to Council at the December 7, 2010 business meeting.

9. **PUBLIC COMMENT ON MATTERS: - 11:17 p.m.**

1. Diana Lopez-Barnett spoke to house the pottery lab had positively impacted her son with Epilepsy. Please don't lose Nancy, the pottery lab wouldn't be the same without her.
2. Katy Barnhart spoke in support of privatization and making the pottery lab sustainable. She supported council's motion.
3. Lolita Higby with Friends of the Pottery Lab urged council to make this a healthier process.
4. Allen Bentz spoke to non-resident participation at the pottery lab.

10. **FINAL DECISIONS ON MATTERS: - 11:25 p.m.**


Vote was taken on the motion to direct the city manager to proceed with the next steps of evaluating redevelopment of the Diagonal Plaza shopping center and area including scheduling an Urban Land Institute Technical Assistance Panel and examining work program options. The motion carried 7:1; Cowles opposed, Morzel absent. -11:31 p.m.

Vote was taken on the motion to recommend that the city manager refrain from contracting out services until the city manager can run a public process to determine a sustainable future for the pottery lab that includes input most importantly from the users of the pottery lab itself. The motion failed 4:4; Ageton, Appelbaum, Karakehian and Wilson opposed, Morzel absent.


11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 11:50 P.M.

APPROVED BY:


Susan Osborne,
Mayor

ATTEST:


Alisa D. Lewis,
City Clerk